

## **REMARKS**

In the Office Action dated February 25, 2004, the Examiner: (1) rejected claims 18-23 under 35 USC § 102(b) as being anticipated by *Shimono et al.* (JP 09281054 A); (2) allowed claims 1, 3, 4, 8-11, 13, 15-17 and 24-36; and (3) objected to claims 37-46 as being dependent upon a rejected base claim, but the Examiner indicated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants gratefully acknowledge the allowance of claims 1, 3, 4, 8-11, 13, 15-17 and 24-36, as well as the indication of allowable subject matter in claims 37-46.

In response to the Office Action, Applicants have: (1) amended claims 18, 19 and 21; (2) cancelled claims 20, 22 and 23; and (3) added new claims 47-52. Support for the amendments to claims 18 and 19 may be found throughout the specification, including FIGS. 3A through 3F. Claim 21 has been amended to include the limitations of claim 23, and Applicants respectfully traverse the Examiner's rejection of claim 23 for the reasons set forth in the discussion that follows. Applicants submit that independent claims 18 and 21 are now in allowable form as explained in the discussion that follows. Therefore, because claims 37 through 46 each depend from now allowable independent claim 18 or 21, Applicants submit that no amendments are necessary to place claims 37 through 46 in condition for allowance. With respect to newly added claims 47 to 52, support for the claimed subject matter may be found throughout the specification, including FIGS. 1A- 1E, 2A-2E, 5A, and page 11.

### **Claim Rejections Under 35 U.S.C. § 102(b)**

Claims 18-23 stand rejected under 35 USC § 102(b) as being anticipated by *Shimono et al.* (JP 09281054 A). Claim 18 has been amended to indicate that the at least one receiver is

configured for receiving propagated light signal reflected by at least one crack, and that the system is configured to detect the presence of a crack by an increase in propagated light received by the at least one receiver. Applicants submit that *Shimono et al.* fails to teach or suggest these limitations. *Shimono et al.* is generally directed to a defect inspection means that includes detection parts 52,53 to detect a defect from a change in reflected or transmitted light (abstract). While FIG. 7 of *Shimono et al.* appears to show receipt of a reflected beam 102 and a transmitted beam 103, the corresponding details for this Figure, as shown in FIG. 10, indicate that the system of *Shimono et al.* operates in a manner distinguishable from the invention recited in claims 18 and 21. Specifically, beam 102 directed towards the disc surface and defect 1a results in the receiver (7 and 8) detecting reflected signals (102) from the normal part of the disc while reflected signals 102a from the defect 1a are scattered (*i.e. not received by the receiver 7 and 8*). Any such signals from the defect 1a would therefore not result in an increase in the propagated light received by the receiver, but rather a decrease. Hence, for at least these reasons, claim 18 is patentable over the art of record.

Claim 21 has been amended to include only the limitations of dependant claim 23. Applicant submits that at least because *Shimono et al.* fails to teach or suggest that the receiver is adapted to receive propagated signals reflected by at least one crack, claim 21 is patentable over the art of record.

Applicant notes that pending claims 19 and 37-46 each depend from independent claim 18 or independent claim 21. As such, for the reasons set forth above with respect to claim 18 and claim 21, dependent claims 19 and 37-46 are allowable at least because they depend from an allowable base claim. Moreover, these dependent claims recite additional limitations that further distinguish the prior art, and therefore, claims 19 and 37-46 are allowable for these reasons as

well. However, further discussion of these distinctions is believed unnecessary in view the distinctions discussed above relative to the independent claims.

### **New Claims**

With respect to newly added claims 47-52, Applicants submit that these claims are patentable over the art of record for at least the reason that none of the art of record teaches or suggests an optical disc drive configured for performing an inspection operation of the disc and at least one of a read and write operation on the disc as recited by independent claim 47. Instead, the art cited by the Examiner is limited to disc inspection on stand-alone systems having neither data reading nor data writing capabilities. New dependent claims 48-52 are allowable at least for the reason that each claim depends from allowable independent claim 47. Moreover, as to dependent claim 48, Applicants note that the limitations in this claim are neither taught nor suggested in the art of record. To avoid confusion, and to expedite prosecution, Applicant point out that FIG. 4 of *Hatayama* (JP 09033447) reflects a top plan view. As explained in the Abstract, the laser light L enters the horizontal plane at an angle of 40 degrees. Thus, there is no teaching or suggestion that the light beam is propagated along the plane of the disc, as recited by claim 48. For at least the foregoing reasons, Applicants submit that new claims 47 – 52 are allowable.

### CONCLUSION

During the course of these remarks, Applicants have at times referred to particular limitations of the claims that are not shown in the applied prior art. This shorthand approach to discussing the claims should not be construed to mean that the other claimed limitations are not part of the claimed invention. They are as required by law. Consequently, when interpreting the claims, each of the claims should be construed as a whole, and patentability determined in light of this required claim construction. Unless Applicants have specifically stated that an amendment was made to distinguish the prior art, it was the intent of the amendment to further clarify and better define the claimed invention and the amendment was not for the purpose of patentability.

Reconsideration of the claims as amended and the allowance thereof is respectfully requested. If the Examiner has any questions or comments regarding this communication, he is invited to contact the undersigned to expedite the resolution of this application.

Respectfully submitted,



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